

DEC 12 1989

CERTIFIED MAIL

Dear Applicant:

We have completed our review of the Form 1023, Application for Recognition of Exemption under section 501(c)(3) of the Internal Revenue Code which you filed.

The evidence submitted indicates that you were incorporated under the laws of the State of [REDACTED] to provide for maintenance of [REDACTED] located at [REDACTED].

Your articles of incorporation, as presently filed do not limit your purposes to an exempt purpose. do not contain any provision for prohibiting any part of the net earnings from benefiting any private shareholder or individual and they do not provide for the distribution of your assets to a qualified 501(c)(3) entity in the event your organization dissolves.

Your activities, as stated in your application, include maintenance of condominium property including repair of external damage, landscaping, snow removal, exterior painting and insurance.

Income to your organization is from fees from condominium owners.

Expenses are for the maintenance of the items stated above.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious, scientific and educational purposes, no part of the net earnings of which benefit any private shareholder or individual.

Code	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
15	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Time	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	8-25-89	8/25/89	12/12/89			

[REDACTED]

Income Tax Regulations section 1.501(c)(3)-1(a)(1) provide that, to be exempt, an organization described in section 501(c)(3) must be both organized and operated exclusively for one or more of the purposes described in this section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Regulations section 1.501(c)(3)-1(b)(1) specifies that an organization is organized exclusively for one or more exempt purposes only if its Articles of Incorporation limit the purpose of such organization to one or more exempt purposes.

Regulations section 1.501(c)(3)-1(c)(1) stipulates that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish any of the activities specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Regulations section 1.501(c)(3)-1(d)(ii) specifies that an organization is not organized or operated exclusively for an exempt purpose unless it serves public rather than private interests.

Our review of the application submitted under section 501(c)(3) of the Code indicates that your organization does not meet either the organizational or operational tests. Your articles of incorporation do not limit your purposes exclusively to religious, charitable or other stated purposes and they fail to prohibit that any part of the net earnings of the organization will benefit any private shareholder or individual. Your articles of incorporation also do not provide for the distribution of your assets to a qualified entity in the event you dissolve.

Your organization also fails the operational test of section 501(c)(3) since your primary activity of maintaining common grounds surrounding your condominium association is not an activity that is exclusively religious, charitable, educational or scientific. Therefore, based on the information submitted, we have concluded that you are not entitled to exemption under section 501(c)(3).

Contributions to your organization are not deductible under section 170 of the Code.

Since your organization is not entitled to tax-exempt status under section 501(c)(3), it is a taxable entity and is required to file federal income tax returns on Form 1120.

Section 528 of the Internal Revenue Code deals with organizations which are "homeowners' associations". The term "homeowners association" for purposes of this section means (a) an organization which is a condominium management association or a residential real estate management association if such organization is organized and operated to provide for the acquisition, construction, management, maintenance and care of association property, (b) 50% or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from owners of residential units of a condominium management association, (c) 90% or more of the expenditures of the organization are expenditures for the acquisition, construction, management, maintenance, and care of association property and (d) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual and (e) such organization elects to have this section apply for the taxable year.

We are enclosing a copy of Publication 588 which provides information on section 528 if you want to consider electing to be covered by this provision of the Code.

If you do not accept our findings regarding your exempt status under section 501(c)(3), we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 292. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax authorization with us.

[REDACTED]

In accordance with section 6104(c) of the Code, a copy of this letter is being sent to the appropriate state officials.

If you do not protest this proposed determination under 501(c)(3) in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(3) of the Code states, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted all administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]  
District Director

• Enclosed: Notification 100  
Notification 100

cc: [REDACTED]